

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

05

10433 RWZ

MAR - 8 P 1:22

RUTH SCHWARTZ
Plaintiff,

v.

MARRIOTT INTERNATIONAL INC.
Defendant.

CIVIL ACTION NO.

MAGISTRATE JUDGE

MBB

RECEIPT # 62573
AMOUNT \$ 25
SUMMONS ISSUED N/A
LOCAL RULE 4.1
POWER FORM
MOF ISSUED
BY DPTY. CLK. RM
DATE 3/10/05

NOTICE OF REMOVAL

TO: THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS

NOW COMES Marriot International, Inc., ("Marriott") and files this Notice of Removal of the above-captioned action from Middlesex Superior Court, Middlesex County, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. In support of its Notice of Removal, Marriott states as follows:

1. As appears from Docket No. MICV2005-00190 on file in Middlesex Superior Court, the plaintiff filed her complaint on January 19, 2005. On February 7, 2005, Marriott was served with a Summons and Complaint. A copy of the Summons and Complaint is attached to this Notice as Exhibit "A".
2. According to the Complaint, this is a negligence action which alleges personal injuries resulting from a slip and fall on Marriott property in Tewksbury, Massachusetts. As a result of Marriott's alleged negligence, the plaintiff claims that she sustained severe and permanent injuries, has incurred and expects to continue to incur medical expenses and lost wages, and has suffered and expects to continue to suffer great pain of body and mind.
3. The plaintiff is a resident of Tewksbury, Massachusetts.

4. Marriott International, Inc. is a Delaware Corporation with a principal place of business in Maryland.

5. Jurisdiction is founded on diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332.

6. At the time the complaint was filed plaintiff had already suffered an alleged \$27,738 in medical expenses and lost wages. Plaintiff allegedly expects to incur at least another \$15,000 in medical expenses. Plaintiff has also claimed past and future pain and suffering. Therefore, Marriott believes that the amount in controversy, given the plaintiff's alleged damages, exceeds \$75,000.

7. This Notice of Removal is being filed within the time period required by 28 U.S.C. § 1446(b).

8. This Notice of Removal was served on counsel of record via regular mail on March 8, 2005

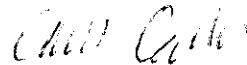
Wherefore, Marriott prays for removal of the above-captioned matter from Middlesex Superior Court, Middlesex County, to the United States District Court for the District of Massachusetts.

Dated: March 8, 2005

MARRIOTT INTERNATIONAL, INC.

By Its Attorneys,

CAMPBELL CAMPBELL EDWARDS & CONROY
PROFESSIONAL CORPORATION

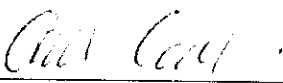


James M. Campbell, BBO # 541882
Christopher A. Callanan, BBO # 630649
One Constitution Plaza
Boston, MA 02129
617-241-3000

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following attorney of record by mail on March 8, 2005.

David B. Stein, Esq.
Rubin, Weisman, Colasanti, Kajko & Stein, LLP
430 Bedford Street
Lexington, MA 02420



Christopher A. Callanan

FEB-08-2005 14:26

MT RISK MGMT

P.04

TO PLAINTIFF'S JOURNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —
 TORT — MOTOR VEHICLE TORT — CONTRACT —
 EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX

[seal]

RUTH SCHWARTZ

Plaintiff(s)

v.

MARRIOTT INTERNATIONAL, INC., Defendant(s)

SUPERIOR COURT
 DEPARTMENT
 OF THE
 TRIAL COURT
 CIVIL ACTION
 No. 05-0190

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon David B. Stein, c/o Rubin, Weisman, Colasanti, Kaiko & Stein, plaintiff's attorney, whose address is 430 Bedford Street, Lexington, MA 02420

....., an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at either before service upon plaintiff's attorney or within a reasonable time thereafter.

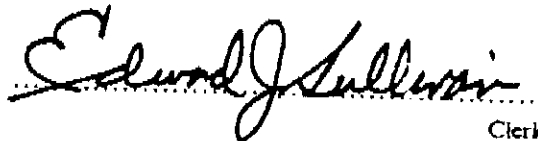
Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse

Suzanne V. DeVecchio, Esquire, at

the day of

....., in the year of our Lord



Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

future, her earning capacity, and to suffer great pain of body and mind both in the past and in the future.

WHEREFORE, Plaintiff demands judgment in her favor against the Defendant, in an amount to be determined by the jury, plus costs and interest.

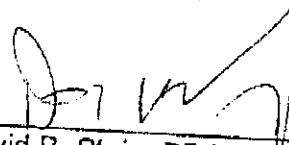
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury.

Dated: January 13, 2005

RUTH SCHWARTZ,
By Her Attorneys,

RUBIN, WEISMAN, COLASANTI,
KAJKO & STEIN, LLP



David B. Stein, BBO# 556456
430 Bedford Street
Lexington, MA 02420
Tel.: (781) 860-9500
Fax: (781) 863-0046

CIVIL ACTION COVER SHEET		Trial Court of Massachusetts SUPERIOR COURT DEPARTMENT County: <u>MIDDLESEX</u>	Docket Number
PLAINTIFF(S) <u>RUTH SCHWARTZ</u>		DEFENDANT(S) <u>MARRIOTT INTERNATIONAL, INC.</u>	
ATTORNEY FIRM NAME, ADDRESS AND TELEPHONE <u>David B. Stein, c/o Rubin, Weisman, Chasanti, Kajko & Stein</u> <u>430 Bedford Street, Lexington, MA 02420</u> <u>Board of Bar Overseers Number: 556456 (781) 860-9500</u>		ATTORNEY (if known)	
Place an "x" in one box only: <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup. Ct. c. 231, s. 104 (Before trial) <input type="checkbox"/> 3. F03 Retransfer to Sup. Ct. G. 231 s. 102C (F) <input type="checkbox"/> 4. F04 District Court Appeal c. 231, s. 97 & 104 (After trial) <input type="checkbox"/> 5. F05 Reactivated after rescript/relief from judgment/Order (Mass. R. Civ. P. 60) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)			
CODE NO. <u>E20</u>	TYPE OF ACTION AND TRACK DESIGNATION (See reverse side) TYPE OF ACTION (specify) <u>PI - Slip. & Fall</u> TRACK <u>(F)</u> IS THIS A JURY CASE? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (Attach additional sheets as necessary)			
A. Documented medical expenses to date: 1. Total hospital expenses \$ 10,703.80 2. Total doctor expenses \$ 9,155.00 3. Total chiropractic expenses 4. Total physical therapy expenses 5. Total other expenses (describe) <u>Splint</u> \$ 1,820.00 B. Documented lost wages and compensation to date \$ 60.00 C. Documented property damages to date Subtotal \$ 21,738.80 D. Reasonably anticipated future medical and hospital expenses \$ 6,000.00 E. Reasonably anticipated lost wages F. Other documented items of damages (describe) \$ 15,000.00 G. Brief description of plaintiff's injury, including nature and extent of injury (describe) \$ 21,000.00 <u>Fractured wrist requiring surgery and torn ligament in arm.</u>			
			TOTAL: \$ 42,738.80
CONTRACT CLAIMS (Attach additional sheets as necessary)			
Provide a detailed description of claim(s):			
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT			TOTAL \$
I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods. Signature of Attorney of Record: <u>[Signature]</u> DATE: <u>1/24/05</u> AJO 5.C.2003			

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Ruth Schwartz v. Marriott International, Inc.
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Christopher A. CallananADDRESS Campbell Campbell Edwards & Conroy, P.C., One Constitution Plaza, Boston, MA 02129TELEPHONE NO. (617) 241-3000

CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Ruth Schwartz

DEFENDANTS
Marriott International, Inc.

2015 MAR - 8 P. 11-22
County of Residence of First Listed Defendant Maryland
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED:
DISTRICT OF MARYLAND

Attorneys (If Known)
Campbell Campbell Edwards & Conroy, One Constitution Plaza
Boston, MA 02129 (617) 241-3000

(b) County of Residence of First Listed Plaintiff Middlesex, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Rubin Weisman Colasanti Kajko & Stein, 430 Bedford Street
Lexington, MA 02420 (781) 860-9500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332

VI. CAUSE OF ACTION

Brief description of cause: Slip and Fall

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/08/2005

SIGNATURE OF ATTORNEY OF RECORD

Allen C. ...

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE